

***DRAFT***

**CRIMINAL JUSTICE SERVICES BOARD  
COMMITTEE ON TRAINING**

**MINUTES**

***March 13, 2003***

A meeting of the Criminal Justice Services Board Committee on Training (COT) convened at 9:00 a.m. on Thursday, March 13, 2003, in House Room D of the General Assembly Building in Richmond, Virginia.

**Members Present**

Ms. Linda D. Curtis  
Mr. Gerald P. Eggleston (*Proxy for Gene Johnson, Director, Department of Corrections*)  
Mr. Thomas W. Fore, Sr.  
Lieutenant Jeff Foxx (*Proxy for Lieutenant Colonel W. Gerald Massengill, Superintendent, Virginia State Police*)  
Chief Atlas L. Gaskins  
Mr. Frederick A. Hodnett, Jr. (*Proxy for Robert N. Baldwin, Executive Secretary, Supreme Court of Virginia*)  
Dr. Jay W. Malcan  
Sheriff Robert E. Maxey, Jr., Chairman  
Chief Dennis Mook  
Colonel Andre Parker  
Ms. Mary Kay Wakefield, Vice-Chairman  
Mr. Christopher Webb

**DCJS Staff Present**

Leon Baker  
Ronald E. Bessent  
John Byrd  
George B. Gotschalk, Jr.

Lisa Hahn  
Dale B. Kastelberg  
Judy Kirkendall

### **Others Present**

George Stevey, Rappahannock Regional Criminal Justice Academy  
Barbara Walker, VCU Police Department  
Steve R. Mahoney, Crater Criminal Justice Academy  
Vince Ferrara, Hampton Roads Criminal Justice Academy  
Richard Schumaker, Cardinal Criminal Justice Academy  
William Flink, Central Shenandoah Criminal Justice Academy  
George Hardecourt, A. D. T.  
Heley Braxton, Paramount Kings Dominion

### **Call to Order**

The meeting was called to order by Chairman Maxey at 9:00 a.m. The roll was called with all members present, constituting a quorum. The Chairman asked if there were any questions or comments regarding the minutes of the last meeting. Hearing none, he asked for a motion to approve the minutes as written. Motion was made and seconded, and the minutes were approved.

### **Old Business**

#### **Update on the Statewide Driver Training Track, by Ron Bessent**

Since our last meeting, there have been new circumstances to arise impacting the Driver Training Facility. With the increasing advent of war, many of the engineering units used by JTF-6 have been called up to go overseas. The unit scheduled to be deployed this summer at Fort Pickett has been called up, and there are no other units available to take its place. Also, the Defense Department may be changing its policy on using JTF-6 forces. What has happened is that the Secretary of Defense is thinking about changing the existing policy -- to assist all states with projects designed to stem the flow of drugs into the country -- to only let these units work within localities along the border states. They do not consider coastal states border states, which eliminates Virginia. If this occurs and they go through with their policy change, we will not be able to use JTF-6 and military engineering units on this project. This is still being debated and no final decision has been made. If the policy changes, we will have to hire private contractors

to complete the project. At this time, we have no money to do this. JTF-6 provided over \$5 million of free work to Virginia last year alone. What all this means is that we will have to go before the General Assembly and ask the legislators to provide the necessary funds to finish the driver-training track.

Mr. Fore asked if it was possible to present a proposition or resolution to the full Board to pass a resolution to ask the Governor's Office to contact Virginia's Congressional Delegation for assistance in intervening with the Secretary of Defense. The desired intervention would encourage the Secretary of Defense to continue to allow JTF-6 to assist internal states or, at a minimum, continue Virginia's project to completion. Chairman Maxey asked for a motion to that effect. Mr. Fore moved that we present such a resolution to the full Board, and Dr. Malcan seconded the motion. Motion was carried.

#### Legislative Update, by Ron Bessent

The General Assembly this year was generally non-eventful for us. Some of the highlights included:

HB1952 / SB 1145 – Crime Commission: Amends Section 9.1-101 of the *Code of Virginia* to define the Crime Commission as a criminal justice agency. An identical bill was passed by the legislature in 2001 but was vetoed by the Governor. The rationale for the bill then, and presumably now as well, was that the Commission needs criminal justice agency status so it can have access to all criminal history records.

HB 2511 / SB 1345 – Academy Fees: This bill amends Section 9.1-106 of the *Code* to allow localities that are served by independent criminal justice academies to add a fee to existing fines in criminal cases, with the funds generated to be used to support their training academies. As introduced, the bill might result in an increase in the number of independent academies and possibly undermine the regional academy system. However, at Department of Criminal Justice Services’ (DCJS) request, the patrons offered an amendment to restrict the availability of the fee option to those localities with independent academies as of January 1, 2003. We have no objection to any legislation creating a funding source for independent academies as long as it does not impact the regional academy funds.

HB 2612 – Definition of Law Enforcement Officer: This bill defines conservation officers of the Department of Conservation and Recreation as law enforcement officers in Section 9.1-101 of the *Code*. There will be a cost associated with conservation officers meeting mandated training requirements for entry-level and in-service training. The legislation has considered, as part of the amendment, a provision to “grandfather” all those appointed prior to July 1, 2003. It is not a significant issue for DCJS to track the training.

SB 1212 – State Mandates on Local Governments: Allows the Governor on his own initiative to suspend any mandate on localities for a period of one year, notwithstanding any application process by a locality and without a determination of fiscal stress. Even though this bill is limited to FY 2003-2004, it could have significant impact on public safety in a number of areas. Affording the Governor the power to suspend “any” mandate on a locality without justification could seriously jeopardize criminal justice training and incur significant liability onto the

localities and the State. Additionally, mandates and regulations affecting local sheriffs and jail operations could be affected impacting the safety and security of jail officers, administrators, and inmate populations. The current law gives the Governor the ability to suspend any mandate, provided a locality makes such a request and there is a finding of fiscal hardship.

SB 1240 – Conservators of the Peace: Places Conservators of the Peace under the authority of the Criminal Justice Services Board and DCJS. The Board may adopt training standards and other requirements to ensure compliance with this provision. In order to seek appointment, an individual must comply with the registration requirements set forth by the Department and pay a registration fee. Exemptions from the training requirements are provided to certain individuals such as law enforcement officers. Appointments are limited to the judicial circuit where application is made. The bill also voids appointments of: special police officers, pursuant to Section 15.1737, as of January 1, 2004; and school security officers, as conservators of the peace, prior to July 1, 2002. Finally, it provides that the membership of the Private Security Services Advisory Board be expanded to include a special conservator of the peace.

Mr. Bessent then turned the floor over to George Gotschalk to discuss HB 1680.

HB 1680: Addresses removal of unsafe vehicles and the penalty for it. It actually reverts back to what the situation was about 10 years ago. It does a couple of things: First, in removal of unsafe vehicles, the General Assembly has always added localities on a case-by-case basis. For several years, the General Assembly would add specific localities to the list for permission to allow officers to remove unsafe vehicles. This bill allows all localities to participate in the

process of removing unsafe vehicles; but certain provisions were added. The provisos state that those individuals have to attend and satisfactorily complete a training program that is offered by the U. S. Department of Transportation, which State Police have been doing for years. The State Police are charged with tracking compliance by the localities and the officers who do this. There was an issue early on with this bill whether, because of budget cuts, the Department of State Police would be able to continue coordinating the annual in-service training which was required for officers to continue performing this function. During the course of this legislative session, it was determined that State Police would continue to perform that function. What the bill does now is state that the localities who have officers who take vehicles out of service will report those officers to DCJS, with evidence that they have completed the basic training required by the Department of Transportation as well as their annual in-service training. So it reverts back to what it was 10 years ago. The localities will send us a list of names of all the officers who will perform this function, and the training sessions that they attended. We maintain a file of all this information so we know who they are. Effective July 1, 2003, any locality can have their officers pull vehicles out of service, provided those officers have met the training requirements of the Department of Transportation and continue to meet the required annual in-service training requirement coordinated by State Police.

A question was raised by Mr. Hodnett as to whether or not the term “Conservators of the Peace” also includes State Magistrates? Are they to be considered under this? I don’t want them to, but are they?

Mr. Gotschalk replied that this was an interesting piece of legislation. It actually came out of the Crime Commission in conjunction with their study of school security officers and school resource officers. What they determined was that there were a number of schools who had their own security forces that had Conservators-of-the-Peace status, with the power of arrest. As they explored this, they also determined that there were a number of other people who had the power of arrest who did not have any training in arrest procedures. It gave the Crime Commission great concern, which prompted this legislation. This bill would cover anyone with the power of arrest, to include Conservators of the Peace and State Magistrates.

#### Rules Changes for In-Service and Instructor Rules, by John Byrd

Chairman Maxey explained that the in-service and instructor rules have undergone review as a result of changes made by the General Assembly with that part of the *Code* dealing with training requirements. George Gotschalk will discuss these changes.

Mr. Gotschalk stated that he would introduce this topic and then turn it over to Mr. Byrd. First, recently passed legislation requires that biased-based policing must be included in in-service training requirements. We will add that issue to the new in-service rules as required by law. The new wording of the law states that the Board should now have “the power and the duty to” promulgate regulations in that area. We want to make sure that we do that. Secondly, we needed to take a look at the rules themselves. I asked Mr. Byrd, in conjunction with an advisory committee, to take a look at the entire method by which we can approve training, particularly training that is in another media form other than the classroom -- the use of the internet, use of CD-ROMS, etc. -- much in the same manner as the Federal Law Criminal Justice Training

Center in Georgia does. We wanted to look at how we could open that whole area up and incorporate modern technology. Other states have already done this and we needed to prepare for the future as well. The other piece to this is that the instructor certification and re-certification process was not very workable for the field representatives, academy directors, and instructors. At this point, I will let Mr. Byrd discuss this topic.

John Byrd indicated that DCJS is proposing changes to make the in-service and instructor rules less restrictive in regard to paperwork, without losing sight of the purpose of the rules. Consequently, representatives of the criminal justice community were asked to participate in a review process, which resulted in the relevant associations and agencies selecting representatives to serve on a Rules Committee.

Representing the Chiefs' Association were Chief Bennett, Lynchburg Police Department, and Chief Yost, Williamsburg Police Department. Representing the Sheriffs' Association were Sheriff Osborne, Wythe County, and Sheriff Woodley, Brunswick County. The Academy Directors' Association was represented by Mr. Ferrara, Hampton Roads Criminal Justice Training Academy, and Lieutenant Dodson, Virginia Beach Police Training Academy. The State Agency Academies were represented by Captain Paul, Virginia State Police, and Mr. Eggleston, DOC / ASD. Representing the Regional Jails' Association was Mr. Isom, Albemarle/Charlottesville/Nelson Regional Jail.

The initial meeting was held on August 22, 2002. A draft incorporating all the changes agreed to by the Rules Committee was mailed to all Rules Committee members on September 3, 2002.



The Rules Committee members then solicited feedback from their constituents and reached a consensus to promulgate the following changes.

1. Currently, the rules allow DCJS to establish guidelines to approve job-related electronically transmitted programs. The proposed change would allow academy directors to determine the content of these programs, just as they now determine the content of regular in-service training.
2. Currently, academies submit information about in-service training to field coordinators for approval. This proposal allows the certified academy, under direction of the Board, to approve and conduct all in-service training.
3. At the discretion of the Board, the academy may approve in-service training to be conducted at member agencies. The academy would be responsible for approving and monitoring such training much the same as they now are required to approve and monitor satellite training.
4. Currently, the minimum requirement for a training session is four hours. This proposal would change that to two-hour sessions. As far as the requirement that Mr. Gotschalk talked about, we propose to require a minimum of two hours of training to ensure sensitivity to and awareness of cultural diversity and the potential for biased policing.

5. Currently, instructors may not receive in-service credit for training they conduct. This proposal would allow them to receive in-service credit for training that they conduct. They can only receive credit once during the two-year in-service cycle for the same topic of instruction.

6. Currently, the apprenticeship for all types of instructors -- except firearms -- is a minimum of four hours. Firearms is eight hours (four hours classroom and four hours range). The proposal is to make all skill instructors a minimum of sixteen hours. Rather than dictate the number of classroom and skill hours, the requirement would be to demonstrate proficiency in both. Radar is an exception to the sixteen hours.

7. The academy will be responsible for developing instructor re-certification criteria for their academy, providing the training is in a timely manner, and maintaining documentation of completion of re-certification requirements. Instructors will still be re-certified every three years.

DCJS will begin promulgating the rule changes through the Administrative Process Act. This process usually takes about a year-and-a-half. You will still be able to make comments during the Administrative Process Act procedure.

### **New Business**

#### **Electronic Training / Distance Learning Report, by George Gotschalk**

Several meetings ago, this Committee approved certain academies to pilot test and work with using electronic in-service training. Cardinal Academy has had an officer to attend his entire in-

service training with the use of electronic media, development of internet programs, CD-ROMS, etc. However, with the advent of the draft of the in-service rules and opening this up, this has been taken over by not “do we want to do it”, but “how do we want to do it”, and how do we ensure the quality; and that’s what the regulations will do. In the beginning about 23-years-ago, we regulated about 16,000 officers; right now, we are regulating about 34,000 officers. The officer population has doubled in this state. At the same time, JLARC has recommended no new academies and there are no new funds for academies due to budget cuts. Thus, academies will not have increased funds with which to work, but will have increased numbers of people to train. This may result in not having enough facilities for the amount of people we will have to train. The point being is that there is a host of good quality programs that are available that we can use right now for in-service training. The Federal Law Enforcement Training Center is pushing to have training that is available either by CD-ROM or the Internet for officers to do their training on-line. There are also a number of commercial vendors with a vast number of training programs, including homeland security and defense.

However, there are several issues that need to be addressed: One is the sheer volume of people that we currently have to train, and the projected increase in numbers that are going to have to be trained in the near future. Second is keeping up with the new technology. We received information from several states already allowing electronic training in a big way that helped put this pilot test together. We need to consider this as well, as we are behind and we need to catch up. The point is that there are alternative ways to doing business. Many of you participate in regional academies; and if you don’t have to send your officers across three counties, it will save you time and money -- and you will still get the same kind of quality or better. We are looking

to open up this electronic door and work with it. Central Shenandoah has been doing a program and they seem to be happy with it. Cardinal, likewise, has been using it. It won't be perfect, but neither is in-person training at the academies. We want to formalize this in the rules and regulations. This is the wave of the future, the best way to go; and we want to implement it as soon as possible.

#### Training for Part-Time Court Security Officers, by George Gotschalk

Chairman Maxey introduced the next item on the agenda, which addresses the issue of Virginia's courthouse security. This resulted from a letter received from Sheriff Draper in Martinsville. The issue surrounds retired law enforcement officers who work part-time in the capacity as courthouse/courtroom security who have had their in-service training lapse due to retirement. Problems arise when these officers return to the academy for required training, and for various reasons cannot complete the training. We wanted to bring this issue before the Committee to address the specific problem of in-service for courthouse security for people who find themselves in this situation.

Mr. Gotschalk indicated that he had contacted Mr. Doug Cooley, one of Training & Standards field representatives, for his input. As a result of that meeting it was decided that -- with proven documentation that the retired officers have had both entry-level basic and in-service training during their years of service, and in conjunction with their experience -- we can offer them partial exemptions or waivers of the training standards. What we typically require of these officers is to attend only those portions of the training that is related specifically to courtroom/court house security. Those individuals granted exemptions were also required to attend an

academy. At the request of the Sheriffs' Association, there is a core curriculum of subjects to include search-and-seizure, rules of evidence, and a number of minimal legal courses that relate to the power of arrest. As the Sheriff's Association so aptly put it, a citizen only sees a brown uniform and a badge on it. They don't know if you are a jailor, or court security officer, or process server, or road deputy. All they know is that you are a deputy.

The point is that the *Code* states -- if an individual has had prior training and experience as a court security officer, law enforcement officer, jailor, etc. -- the Department can grant an exemption or partial exemption. We do that routinely following a set of guidelines, and we post these guidelines on our web page. It is understandable that retired individuals do not want to go back for more training; but there is no way to get around the Rules & Regulations, which state that court room security training is needed and also the specific courses needed to meet that training. Anyone who meets these criteria can be granted waivers or exemptions.

#### Proposed Private Security Regulations, by Lisa Hahn

Chairman Maxey introduced Ms. Hahn, the new Private Security Section Chief, who gave an update on the new proposed Private Security regulations.

Ms. Hahn stated that she wanted to provide the Committee an update on the Private Security Regulatory Review Process of their new regulations. Currently, Private Security is in the proposed regulatory stage and the new regulations will be published on March 24, 2003. That then opens up the 60-day public comment period from March 24 – May 23, 2003. The public hearing will be held before this Committee on June 12, 2003.

We believe we have addressed most of the concerns raised during the draft comment period. This draft period allowed us to work out the details that affect the industry, so that once the report reaches you at the June meeting there should be minimal problems or issues. We are, therefore, hoping the effective date for these new regulations to be September or October 2003.

Some of the changes to our regulations are in the fee structure. We have proposed fee increases as well as some fee decreases. We are also standardizing the length of our initial and renewal applications for registration, certification, and licensure renewals to every two years. We are also increasing our unarmed security officer training from 16 hours to 18 hours, as well as an increase in the armed security officer training from 24 hours to a 40-hour program. This was based upon a job task analysis on armed and unarmed security officers conducted by the Department, with the assistance of the Private Security Services Advisory Board and members of the industry. We also established a U. S. citizenship requirement or legal resident alien status for all applicants.

Ms. Hahn also provided an update on SB 1240 regarding Conservators of the Peace. This legislation requires all Conservators of the Peace to be registered and trained with the Private Security Services Section of DCJS. It also directs the Department to be ready to accept applications as early as January 1, 2004. She indicated that they will begin to develop entry-level training programs for all Conservators of the Peace that are not exempted from this training requirement. In addition, the Department shall provide a report to the Crime Commission on the status of the regulations, applications, and fees required.

Mr. Gotschalk raised the question of citizenship. He indicated that provisions in the *Code* to employ an individual as a law enforcement officer are based on an individual being in this country legally, on a permanent basis, and in the citizenship process. Ms. Hahn indicated that this was also added to their regulations, per the Attorney General's Office. Individuals just need to show proof of this during the registration process.

#### Next Meeting

Chairman Maxey asked if there were any questions from the audience or if anyone in the audience wished to speak to the COT. Hearing none, Chairman Maxey indicated that the next meeting is scheduled for May 8, 2003.

Mr. Gotschalk indicated that last year the COT did not have a May meeting. The *Code* requires only that the COT meet four times a year. What I suggest is that, if you will allow the DCJS staff to take a look to see if there is a need for a May meeting, we will let you know. If not, we will have one in June, since there is a June meeting scheduled right behind May's meeting. Mr. Gotschalk indicated that he would inform the COT members if there is a need for a meeting in May.

#### Adjournment

Chairman Maxey asked if there was a motion to adjourn. Motion was made and passed and the meeting was adjourned at 10:20 a.m.

Respectfully submitted,

Dale B. Kastelberg  
Recording Secretary

Approved:

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The Honorable Robert E. Maxey, Jr.  
Chairman

Date: \_\_\_\_\_

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